

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FINJAN LLC,)
Plaintiff,)
v.) C.A. No. 20-371-LPS
TRUSTWAVE HOLDINGS, INC., and)
SINGAPORE TELECOMMUNICATIONS)
LIMITED,)
Defendants.)

[PROPOSED] ORDER

WHEREAS, the Court held a hearing in the above-captioned action on May 7, 2021;

WHEREAS, at the May 7, 2021 hearing, the Court denied plaintiff Finjan LLC’s (“Finjan”) motion to dismiss and strike certain of Trustwave Holdings, Inc.’s (“Trustwave”) defenses and counterclaim (D.I. 47);

WHEREAS, also at the May 7, 2021 hearing, the Court indicated it would take defendant Singapore Telecommunications Ltd.’s (“Singtel”) motion to dismiss for lack of personal jurisdiction (D.I. 31) under advisement, and ordered additional jurisdictional discovery related to whether the Court has jurisdiction over Singtel;

WHEREAS, the Court ordered the parties to submit a proposed order setting forth the parties’ positions on the scope and schedule for jurisdictional discovery and a schedule for supplemental briefing and a hearing on the Court’s jurisdiction over Singtel.; and

WHEREAS, the Court also ordered the parties to submit their position on whether Finjan’s claims against defendant Trustwave should move forward while Singtel’s motion is pending:

NOW, THEREFORE, it is hereby ORDERED as follows:

1. For the reasons stated by the Court during oral argument, Finjan's motion to dismiss and strike (D.I. 47) is denied.
2. Singtel's motion to dismiss for lack of personal jurisdiction (D.I. 31) is taken under advisement.
3. Pursuant to this Court's direction (1) Singtel agrees to produce the Singtel-Trustwave merger agreement by May 21, 2021 and (2) Singtel agrees to a 3-hour deposition of Quah Kung Yang to be conducted via remote means by July 16, 2021.
4. **[Finjan's proposal:** The scope of jurisdictional discovery shall include all the bases for jurisdictional discovery advanced in the proposed order to Finjan's opposition brief (D.I. 49), including whether Singtel has minimum contacts with Delaware sufficient to satisfy due process concerns, in accordance with the Court's guidance. (*See* May 7, 2021 Hearing Tr. at 48:4-19). Singtel shall supplement its responses to Finjan's outstanding written discovery requests by June 4, 2021. Singtel shall supplement its document production in response to Finjan's requests by June 14, 2021.]

[Singtel's proposal: Singtel has agreed to produce the merger agreement and provide Quah Kung Yang for a deposition, which is in addition to the voluntary discovery already produced by Singtel. Singtel worked diligently to obtain approval for production of the merger agreement and Quah Kung Yang's deposition between Friday's hearing and the deadline for this submission. To date, Finjan has not explained why it needs any other additional information from Singtel related to the pending motion to dismiss.

Accordingly, Singtel is not in a position to evaluate the broad request made by Finjan

above. Once presented with some specificity, Singtel will endeavor to reach an agreement with Finjan on any additional discovery.]

5. Finjan reserves the right to pursue additional jurisdictional discovery that it believes is necessary, and Singtel reserves the right to object to any such additional jurisdictional discovery.
6. Finjan shall submit a 15-page opening supplemental brief on personal jurisdiction by August 4, 2021.
7. Singtel shall submit a 15-page answering supplemental brief on personal jurisdiction by September 1, 2021.
8. The Court shall hold telephonic oral argument in September or October 2021 at the Court's convenience.
9. Finjan shall file its answer to Trustwave's counterclaim within 14 days of this Order.
10. **[Finjan's proposal:** Discovery on Finjan's and Trustwave's claims and defenses related to the '154 Patent shall begin immediately. The parties shall meet and confer and submit a proposed case schedule for this action by June 4, 2021 with respect to Finjan's and Trustwave's claims and defenses. (See Hearing Tr. at 47:5-11). At the same time, the parties shall submit their positions regarding whether a schedule should be entered at this point with regard to Finjan's claims against Singtel.]
11. **[Trustwave's proposal:** Discovery on Finjan's and Trustwave's claims and defenses related to the '154 Patent should open after resolution of Singtel's motion to dismiss in order to allow the identical claims to proceed on the same track, if necessary.]
[Singtel's proposal: Discovery on Finjan's claims related to the '154 Patent against Singtel is premature until Singtel's motion to dismiss is resolved.]

12. This matter is referred to a magistrate judge to explore the possibility of alternative dispute resolution.

/s/ Jeff Castellano

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Dated: May 12, 2021

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SO ORDERED this ____ day of ____ 2021.

United States District Judge